

Guidance Note 4: Frequently Asked Questions

Freedom and flexibilities

1. What is the status of Guidance Note 4?

Skills Funding Agency Guidance Notes form part of the Chief Executive's Funding Guidance and are therefore contractual for all colleges, training organisations and employers that are funded by the Agency.

2. What were the four freedoms and flexibilities announced by John Hayes on 17th June?

These are set out below. The first two are for the Skills Funding Agency to implement and are the subject of Guidance Note 4.

- All colleges, apart from poor performers, will be able to move money between budgets. This will allow them to respond quickly to local demand
- The requirement for colleges and training organisations to complete Summary Statements of Activity has been removed
- The government will work to remove the requirement for Ofsted inspections of colleges rated as outstanding, unless their performance drops
- The government will remove the regulatory requirement for college principals to undertake the Principals Qualifying Programme, recognising the range of development opportunities and qualifications open to Principals.

3. What do freedoms and flexibilities mean for PSA targets, full qualifications and entitlements?

We expect to have clarity on what is happening to the PSA target regime following the Spending Review 2010 process, which is due to finish in late October. The Skills Investment Strategy published in November 2009 set the priorities for funding for 2010-11 and was based on basic skills, full level 2, full level 3 and level 4. The Spending Review will clarify what the indicators and measures will be that will be used for the next spending review period.

The Skills Funding Agency will fund all the qualifications it has approved for public funding that are on the QCF (and by exception, those qualifications on the NQF where there is no suitable QCF qualification).

Entitlements remain the same for 2010/11.

4. Why is there a difference between the level of flexibility afforded to colleges and training organisations?

Ministers have agreed the freedoms and flexibilities based on provider type. This is in recognition of the grant relationship the Government has with colleges but does not have with training organisations and employers. It also reflects the fact that only a tiny

proportion of training organisations receive both Adult Learner Responsive and Employer Responsive funding.

5. What flexibilities will training organisations that deliver both Adult Learner Responsive and Employer Responsive provision receive?

Colleges and other public sector organisations that receive funding from the Agency through a Financial Memorandum or Conditions of Grant will have flexibility across both Adult Learner Responsive and post-19 Employer Responsive funding. Any organisation that has a Contract for Services will only have flexibility on their post-19 Employer Responsive budget. Training organisations that deliver both Adult Learner Responsive and Employer Responsive provision and have a Contract for Services will therefore only have flexibility on their post-19 Employer Responsive provision.

6. What is the status of Additional Learning Support (ALS) and LLDD for 25+ within the new flexibilities?

Both of these remain outside the scope of a single budget approach for 2010/11 as they are focused on support as opposed to participation. These funds should not therefore be utilised to support any other activity.

Poor performing colleges and training organisations

7. What will the arrangements be for poor performing colleges and training organisations?

Colleges and training organisations deemed as poor performers (refer to paragraph 14 in the Guidance Note) will receive a single budget as per the terms of their funding agreement or contract. The Agency will contact these organisations and they will be expected to enter a dialogue so that the Agency can ensure funding is directed into high-quality provision for learners and employers.

Profiling and payments

8. How will standard profiles (single national profiles) be derived for colleges, training organisations and employers for programmes within the single budget?

For colleges, a standard national profile for Adult Learner Responsive already exists and the Agency proposes to pay Employer Responsive funding against the same profile. This will mean that there will be one standard national profile and colleges will receive only one monthly payment, for the totality of their Adult Learner Responsive and Employer Responsive funding. The Agency will work with the Association of Colleges to agree this profile.

For training organisations and employers, a standard national profile will be set for Employer Responsive funding. This will be based on past patterns of Apprenticeship delivery and sector average patterns of delivery. The Agency will work with the Association of Learning Providers to agree this profile.

For all of the programmes outside the single budget, payments will be made according to their specific arrangements.

9. When will profiles for programmes within the single budget be issued?

Once standard national profiles have been agreed by the Skills Funding Agency, they will be issued to all colleges, training organisations and employers through a contract variation prior to the start of the academic year.

10. How will payment arrangements change for colleges, training organisations and employers?

Colleges will be paid on profile for all of the programmes within the single budget.

For training organisations and employers, payment arrangements for post-19 Employer Responsive delivery will remain the same as in 2009/10.

Performance management

11. Will learner numbers be measured?

For programmes within the single budget, learner volumes will not form part of the contractual agreement with colleges, training organisations or employers. Contracts for the single budget will be cash-based and performance will be reconciled against cash. In assessing future allocations, the Agency will take account of value for money in terms of the delivery that has taken place for the cash agreed. The review of the funding methodology and system will also take account of ensuring value for money is delivered and how this will be reflected in the allocations process for 2011/12.

As Guidance Note 4 states, the Agency will regularly publish performance data at individual provider and aggregate level to ensure the sector can clearly demonstrate how it is delivering Government ambitions.

For programmes outside the single budget, learner numbers will still be measured where this is a specific requirement of the programme (e.g. 16-18 Apprenticeships). These are set out in contract documentation.

12. When will the detail of performance management arrangements be published?

The detail of performance management arrangements will be published in Guidance Note 5 before the start of the new academic year. This will include details of tolerance thresholds for training organisations and employers.

13. How will funds recovered from underperformance be redeployed?

This will be covered in Guidance Note 5.

14. What will stop colleges delivering fewer but more expensive learners?

Colleges will be expected to use their allocation to deliver in line with their assessment of community, stakeholder and employer needs and funding guidance, whilst

supporting Government ambitions. It is recognised that it costs more to deliver some types of provision (e.g. Apprenticeships).

15. What performance MI will be published and what action will be taken if it illustrates a mix of provision that appears inconsistent with the national direction of travel?

The Agency is currently developing the specification for the data to be published. This will enable the sector to look at how it is delivering, both individually and collectively, against the needs of employers and learners, and the aspirations of government. We expect this information to inform robust discussions with local stakeholders and to be made freely available by colleges, training organisations and employers.

The Agency will have a discussion with any college, training organisation or employer that is not delivering against Government ambitions such as Apprenticeships.

16. Will it matter if a college, training organisation or employer exceeds the notional 8-month maximum contract value shown on funding statements?

Colleges will not be affected by the 8 month/4 month MCV split as they will be paid on profile across the academic year.

Training organisations and employers will not be able to exceed their notional 8 month MCV as the payment system will cap payments at the end of the 8 month period unless the Skills Funding Agency increased the MCV. Decisions about redistributing any available money in-year will occur at the reconciliation points.

Apprenticeships and Train to Gain

17. If the shift of funds from Train to Gain to Apprenticeships is voluntary how will the Agency ensure it gets the desired increase in Apprenticeships?

The Government has set Apprenticeships as a clear and continuing priority and expects colleges, training organisations and employers to respond to this.

Contracts prevent training organisations and employers viring funds into Train to Gain.

18. If a college, training organisation or employer currently delivers, for example, only 19-24 Apprenticeships, can they now begin delivering 25+ Apprenticeships too?

Yes. Where any college, training organisation or employer delivers any form of post-19 Apprenticeship provision already, they can now use their funding across post-19 as they see fit. In these cases, it is important that employer demand, capacity and quality can be assured.

19. If a college, training organisation or employer delivers post-19 Apprenticeships and wants to deliver 16-18 Apprenticeships, can they do this?

As there is no virement permitted between 16-18 and post-19 funding, funds allocated for post-19 Apprenticeships can not be vired into 16-18 provision. Similarly, funds can not be vired from 16-18 to post-19 activity.

Any college, training organisation or employer wishing to begin delivering 16-18 Apprenticeships should contact their Account Manager to discuss how they might do this and whether funding is available. In these cases, it is important that employer demand, capacity and quality can be assured.

20. Can Train to Gain only providers use their funding to start delivering post-19 Apprenticeships?

Yes. Any Train to Gain only provider wishing to switch to delivering Apprenticeships must contact their Account Manager to discuss this. In these cases, it is important that employer demand, capacity and quality can be assured and that the impact of the introduction of a minimum contract level is considered.

21. The Skills Funding Agency's grant letter says the new Apprenticeship places should be focussed on SMEs; does this mean the previous emphasis on large public employers is no longer relevant for 25+ work? The grant letter also puts emphasis on 19-24s and doesn't refer to the 19-30 group previously identified as a priority for level 3.

SMEs are a priority but there is also a need to support large employers as well as responding to demand. All post-19 Apprenticeship provision is a Government priority, particularly provision at level 3 and offers to tackle the NEET group aged 16 to 24.

22. As Apprenticeship-only training organisations and employers have no scope to use Train to Gain funds to increase Apprenticeship delivery, will they be prioritised in any process for reallocating funds if they have a strong case to increase their contract?

The Agency is committed to funding high-quality Apprenticeships and will seek to ensure that any funds freed up during the year will go to those training organisations and employers best able to deliver. Guidance Note 5 will clarify the arrangements for the redistribution of funds released through underperformance.

Data returns

23. What happens if a college does not return monthly ILR data on Employer Responsive activity?

The requirement for data returns is part of the Financial Memorandum and funding guidance and failure to comply with these requirements constitutes a breach of contract. In cases of contract breach, funding can be withdrawn or contracts terminated.

As part of work on funding simplification, the Agency is reviewing how it can reduce the volume of data returns required from the sector.

24. How will the Final Funding claim reflect ALR and ER delivery?

This will be set out in Guidance Note 5.

Funding agreements and contracts

25. How will the contract include volumes if there is no Summary Statement of Activity?

For programmes within the single budget, learner volumes will not form part of the contractual agreement with colleges, training organisations or employers. Contracts for the single budget will be cash-based and performance will be reconciled against cash. In assessing future allocations, the Agency will take account of value for money in terms of the delivery that has taken place for the cash agreed. The review of the funding methodology and system will also take account of ensuring value for money is delivered and how this will be reflected in the allocations process for 2011/12.

For programmes outside the single budget, learner numbers will still be measured where this is a specific requirement of the programme (e.g. 16-18 Apprenticeships). These are set out in contract documentation. Volumes for programmes outside the single budget will be set out in Appendix 1 of the contract.

26. How can you have a contract with no volumes?

Activity within the single budget will be contracted and measured on the basis of cash. Programmes outside the single budget will still be contracted on the basis of cash and volumes.

27. How have funding agreements and contracts been changed to reflect the introduction of freedoms and flexibilities?

Paragraphs 32 to 35 of the Guidance Note set out the information that will be contained in agreement and contract documentation for 2010/11.

The main change to all contractual documentation for 2010/11 is that the Summary Statement of Activity no longer forms part of the contract and that learner volumes will not be set out for any of the programmes within the single budget.

For programmes outside the single budget, there may still be a need for the Agency to set out learner volumes (e.g. on 16-18 Apprenticeships) according to their specific requirements.

There are also a range of other changes to contracts from 2009/10; these are clearly set out in the contract variation letter that accompanies contract documentation.

28. For programmes within the single budget, do colleges, training organisations and employers need to request a variation to contract to move funding from one area of provision to another?

No. As the single budget will operate as one budget, rather than a collection of separate programme lines, there is no restriction on the use of funds.

For programmes outside the single budget, no virement is permitted between programmes without the explicit consent of the Agency.

Virement between 16-18 and post-19 provision is always forbidden.

29. Appendix 1 of the contract has a split between Periods 1-8 and 9-12 for all the 19+ lines, is this applicable to colleges?

No. The 8 month/4 month split only applies to training organisations and employers.

Audit

30. How will audit arrangements reflect these flexibilities?

More detail on this will be set out in Guidance Note 5. Work on funding simplification also includes a consideration of how audit requirements could be streamlined.

Sub-contracting

31. Do these freedoms and flexibilities apply to sub-contractors too?

The Skills Funding Agency is only awarding these freedoms and flexibilities to colleges, training organisations and employers with whom it has direct contracts. The arrangements between a lead contractor and its sub-contractors are a matter for the lead contractor and the Agency will not advise on these.

Subsidiaries

32. Do these freedoms and flexibilities apply to wholly owned subsidiaries?

If the Skills Funding Agency has a direct contract with the subsidiary, the nature of that contract will determine the flexibilities the subsidiary receives. For example, if the subsidiary has a Contract for Services with the Agency, they will only receive flexibility across post-19 Employer Responsive funding streams. If the subsidiary does not have a direct contract with the Agency, the sub-contracting approach applies.

Guidance Note 5 will set out more detail on the Skills Funding Agency's contracting strategy.

Funding and use of funds

33. Do colleges have the flexibility to use 19+ Employer Responsive funding for Adult Learner Responsive activity and vice versa?

Yes. Colleges with both post-19 Employer Responsive and Adult Learner Responsive funding can use this funding flexibly between these areas although the Agency does not expect to see any increase in Train to Gain activity and Apprenticeships should be the first consideration in deciding where to deploy funds.

34. If a college exceeds its nominal cash allocation for Train to Gain, will the extra be automatically unfunded or could ALR be vired in to cover this?

No college should exceed the nominal cash amount it has been allocated for Train to Gain by using other funds to support this delivery. Where data returns evidence that this is happening, remedial action will be taken when determining the 2011/12 allocation for the college.

35. If a college decides that the appropriate response in-year is to move Train to Gain funding into adult provision rather than into Apprenticeships, will it be penalised in future funding allocations?

The Agency is consulting on the funding methodology over the summer; this will include more detail of how allocations will be determined. However, the Government has publicly committed to the delivery of more Apprenticeships so this is expected to be a key feature of future investment.

36. If the demand from our community is for more adult and community learning, can ALR be used to deliver this (i.e. increase/start up some PCDL in "FE")?

Adult and community learning is not part of the single budget and ALR funding can not be used to deliver this. Furthermore, Adult Learner Responsive funding should only be used to deliver accredited provision that is on the QCF.

37. Do current eligibilities, entitlements and fee expectations continue under the single budget?

Yes, for 2010/11. The Agency's Requirements for Funding clearly sets these out for each programme.

38. Will current eligibility "rules" apply to Train to Gain and Apprenticeships?

Yes. The Agency's Funding Requirements sets all this out. Subsequent to Guidance Note 2 being issued, it is important to clarify that for learners who have completed a Level 2 Apprenticeship it is not expected that they will start another Level 2 Apprenticeship in a related occupational area, as they are expected to progress to a higher level of Apprenticeship as their skills and competence grow. However, it is recognised that there are special circumstances where the Apprentice's job role and the requirements of their employment is to be multi-skilled. The provider must demonstrate that the repeat Level 2 Apprenticeship is occupationally relevant and of material benefit to the Apprentice. This does not apply to an apprentice where they have changed their occupation, for example from retail to construction. However, the provider must take into account all prior learning and achievement when filling in ILR field A51a.

39. Will the new qualification funding values stand alongside old ALR/ER guidance i.e. differing rates re delivery model (work-place vs. in-College)?

Yes. The Agency's Requirements for Funding clearly sets these out for each programme.

40. Do the flexibilities apply to 2010/11 provision and funding only or will they apply to the reconciliation of 2009/10 funds?

The flexibilities apply from 1st August 2010 in relation to 2010/11 provision and not the reconciliation of 2009/10.